IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4434 of 2006 (O&M)
Date of decision : 25.9.2006

Jaspal Singh and others

....Appellants

Versus

Charanjit Kaur and others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.R.S.Ahluwalia, Advocate
for the appellants.

...

MAHESH GROVER, J.(Oral)

The present appeal has been filed by the owner of the bus, i.e. Pepsu Road Transport Corporation and its driver against the award of the Motor Accident Claims Tribunal, Bathinda dated 14.2.2006 passed in M.A.C.T. Case No.25 of 12.4.2005.

In an accident, which is alleged to have taken place on 20.3.2005, resulting in the death of one Jagsir Singh, who was riding a motorcycle, the Tribunal awarded a sum of Rs.6,40,000/- along with interest @ 6% per annum from the date of application till its realisation.

The award was assailed by the appellants primarily on the ground of non-complicity of the vehicle in the said accident and in the alternative it was pleaded that the deceased be held guilty of contributory negligence as he had struck against the back side of the

bus which resulted in his death.

Both the contentions raised by the learned counsel for the appellants have to be evaluated against the backdrop of the evidence and record of the case, the perusal of which shows that a criminal case under the provisions of Section 304-A of the Indian Penal Code was registered against the appellant No.1 vide FIR No. 22 dated 20.3.2005. The FIR was lodged promptly, which is indicative of the fact that the vehicle was, indeed, involved in the accident. The first contention is, therefore, without any merit. It is also noteworthy that in the written statement filed before the Tribunal, the appellants have set up a plea that the vehicle had not been involved in the accident as the accident had taken place with the vehicle which was in the convoy of one Maninderjit Singh Bitta, the President of All India Anti Terrorist Front. This plea of the appellants when weighed against the alternate plea raised by the appellants regarding contributory negligence of the deceased falls flat on its face. The appellants have contended that the motorcyclist had struck against the back of the bus and, therefore, should be held guilty of contributory negligence. The pleas raised by the appellants are contradictory in nature. The accident had taken place because of the sudden application of brakes by the driver of the bus. There is nothing on record to suggest that the applying of sudden brakes was because of unavoidable compulsion. Applying the principle of res ipsa locutor, it is clear that the bus driver who had applied the brakes suddenly had made the accident unavoidable which resulted in the death of deceased Jagsir Singh.

The contentions raised by the learned counsel for the appellants are, therefore, devoid of any merit and do not warrant any interference in the findings recorded by the Tribunal.

That apart, the appeal is barred by a delay of 10 days in filing and 48 days in refiling which has not been explained satisfactorily.

Consequently, the appeal is dismissed in limine.

(MAHESH GROVER)
JUDGE

25.9.2006

(UMA NATH SINGH)
JUDGE

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